

10/650,571
200300745-1RECEIVED
CENTRAL FAX CENTER

6

JUL 05 2007

REMARKS

Claims 20-23 and 25 are pending in the present application. Claims 1-19 were previously withdrawn subject to a restriction requirement.

Reconsideration of the application is respectfully requested in view of the following responsive remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

In the office action of April 6, 2007, the following actions were taken:

(1) Claims 20-23 and 25 were rejected under 35 U.S.C. 102(b) as being allegedly anticipated by U.S. Pat. Publication No. 2003/0114936 (hereinafter "Sherwood"); and

(2) Claims 20-23, and 25 were rejected under 35 U.S.C. 103(a) as being allegedly being unpatentable over U.S. Pat Publication No. 2001/0005797 (hereinafter "Barlow") in view of Sherwood.

It is respectfully submitted that the presently pending claims be reconsidered and allowed in light of the current amendment.

Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 20-23 and 25 under 35 U.S.C. 102(b) as allegedly being anticipated by Sherwood. It is noted that the Sherwood reference was published June 19, 2003, and the pending application was filed August 27, 2003, less than two months later. As such, Sherwood does not qualify as art under 102(b) as stated by the Examiner. For the purposes of the present response, the Applicants have assumed that the Examiner intended the rejection be made under 102(a).

First, it is noted that the Examiner previously, and in the Applicants opinion, properly allowed the subject matter of claim 24, now included in claim 20. That claim included an element requiring that "the composition has surface pores, said surface pores being no larger than about 10 microns on average." The Examiner has now retracted the allowance and asserted the present rejection based on the same piece of art, namely Sherwood. Specifically, the Examiner now cites to paragraph [0160] in Sherwood to show that the composition "can have a set of surface pores that

10/650,571
200300745-1

7

are less than 10 microns in size." Although such a statement arguably is supported by Sherwood, it fails to teach the required element of claim 20, namely that the surface pores are "no larger than about 10 microns on average." (emphasis added).

Sherwood states the following with respect to pore sizes:

The SEM of the surface also reveals the porous network, which includes primary pores that were greater than 100 microns and secondary pores less than 10 microns in size. Sherwood Paragraph [0160].

Although such a teaching in Sherwood arguably supports the assertion that the composition can include some "secondary pores" with sizes of 10 microns or less, the teaching also clearly states that the same composition also contains "primary pores" with sizes greater than 100 microns. Sherwood makes it clear that both types of pores (i.e. less than 10 microns and greater than 100 microns) are present in the composition. There is no teaching in Sherwood of a composition which has pores that are less than 10 microns in size on average, as required by the currently pending claims. As such, Sherwood fails to teach each and every element of the claim. In view of this, Applicants respectfully request that this rejection be withdrawn and the claims be allowed.

Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 20-23 and 25 under 35 U.S.C. 103(a) as allegedly being obvious over Barlow in view of Sherwood. Barlow allegedly teaches each of the elements of claim 20 with the exception that Barlow fails to teach a composition with pores no larger than 10 microns on average. The Examiner has attempted to use Sherwood to provide the teaching of a composition with pores no larger than 10 microns on average. However, as discussed above, Sherwood fails to teach a composition with pores no larger than 10 microns on average. Rather, Sherwood teaches a composition which has some pores which are greater than 100 microns and some pores which are less than 10 microns. No average is given in Sherwood, but because 100 microns is a full order of magnitude larger than 10 microns, it is evident that the average particle size would be well above 10 microns, and at minimum, there is no disclosure supporting an assertion that the average pore

10/650,571
200300745-1

8

size would be less than 10 microns. As such, Sherwood and Barlow collectively fail to teach a composition which has pores no greater than 10 microns on average. Therefore, the combination of references does not teach each and every element of the claims and it is respectfully requested that this rejection be withdrawn and the claims be allowed.

As a further note, because Sherwood requires pores that have a size of at least 100 microns, to modify Sherwood to so that its poor sizes are smaller than that disclosed as being a significant part of the invention would be inconsistent with the teachings of Sherwood as a whole. Reconsideration on these alternative grounds is respectfully requested.

In view of the foregoing, Applicants believe that claims 20-23 and 25 present allowable subject matter and allowance is respectfully requested. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone Jeff D. Limon at (541) 715-5979 so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 08-2025

Dated this 5th day of July, 2007.

Respectfully submitted,



Gary P. Oakeson
Attorney for Applicant
Registration No. 44,266

THORPE NORTH & WESTERN, L.L.P.
8180 South 700 East, Suite 200
Sandy, Utah 84070
(801) 566-6633

On Behalf Of:
HEWLETT-PACKARD COMPANY
1000 NE Circle Blvd., m/s 422B
Corvallis, OR 97330-4239
(541) 715-0159